IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JAIPUR BENCH

JUDGMENT

Smt.Munvirunissa Begum & Others Vs. State of Rajasthan & Others
(D.B. Civil Special Appeal No.327/1995)

D. B. Civil Special Appeal under Sec.18 of the Rajasthan High Court Ordinance 1949 against the order dated 24-1-1995 in SB Civil Writ Petition No.5014/1992.

Date of Judgment: January 18, 2007.

PRESENT

HON'BLE MR. JUSTICE SHIV KUMAR SHARMA
HON'BLE MR. JUSTICE R.S.CHAUHAN

Mr. Bajrang Lal Sharma, Senior Advocate with
Mr. Chandra Shekhar Sharma, for the appellants.

None for the respondent.

BY THE COURT: (PER HON'BLE Shiv Kumar Sharma,J.)

Challenge in this appeal is to the order dated January 24, 1995 of learned Single Judge whereby the writ petition filed by respondents No.3to8 was partly allowed and order dated June 23, 1989 of the State Government was quashed with a direction to consider the conversion of the pasture land in accordance with the procedure prescribed under Rule 7(2) of Rajasthan Tenancy (Government) Rules 1955 (for short `1955 Rules').

2. Contextual facts depict that appellant No.1 was allotted 86 bighas 8 biswas of land in village Chhan and Gudha Ramdas on January 5, 1989 under section 16 of the Rajasthan Lan Reforms and Resumption of Jagirs Act as Khud-kasht. However the appellant No.1 found the land unsuitable for cultivation after inspecting the site. Subsequently the area of village Chhan came under the colony and by virtue of Rule 6A of 1955

Rules the land recorded as pasture land ceased to remain as the pasture land. The State Government in view of Rule 6A made an order June 23, 1989 converting pasture land into Sawai Chak land. The total converted land was 3599 bighas 9 biswas which included 333 bighas and 11 biswas of pasture land situated in village Chhan. Since khud-kasht land allotted to appellant No.1 was not cultivable, she made request to Collector Tonk to allot Sawai Chak land available for allotment. The Collector Tonk vide order dated December 19, 1989 accepted the request of appellant No.1 and allotted her 76 bighas 14 biswas of land situated in village Chhan by making partial modification in the earlier allotment order dated January 5, 1989.

3. This order dated June 23, 1989 was objected by the respondents No.3to8 by filing representation dated May 21, 1990, which came to be rejected on March 30, 1991. The appeal and revision filed before the Revenue Appellate Authority Ajmer and Board of Revenue Ajmer were also rejected on February 7, 1992 holding that impugned order has been passed under the Jagir Resumption Act and not under Colonisation Act. Thereafter on February 20, 1992 the land in question was sold by appellant No.1 to appellants No.2to4.

4. The respondents No.3to8 preferred the writ petition challenging the orders dated June 23, 1989, December 19, 1989 and the sale deed dated February 20, 1992. Learned Single Judge partly allowed the writ petition as indicated above.

5. We have heard the submissions advanced before us and scanned the material on record.

6. Having carefully gone through the scheme of 1955 Rules we find that Rule 6A has overriding effect on the provisions contained in Rule 7, therefore, as soon as the area of village Chhan came to be declared as colony, the pasture land of village Chhan ceased to its character as pasture land and the State Government had power to convert it into Sawai Chak. It also appears that learned Single Judge failed to notice that Rule 7 had undergone changes on February 10, 1993 and based the impugned order on the old Rules that stood repealed.

7. We also find that learned Single Judge in interfering the concurrent finding of facts arrived at by the Board of Revenue, Revenue Appellate Authority and the Collector exceeded the supervisory jurisdiction. In Sadhana Lodh Vs. National Insurance Co. Ltd. (2003)3 SCC 524 the Apex Court had defined the limit of supervisory jurisdiction thus:-

(Para 7)

> "The supervisory jurisdiction conferred on the High Courts under Article 227 of the Constitution is confined only to see whether an inferior court or tribunal has proceeded within its parameters and not to correct an error apparent on the face of the record, much less of an error of law. In exercising the supervisory power under Article 227 of the Constitution, the High Court does not act as an appellate court or the tribunal. It is also not permissible to a High Court on a petition filed under Article 227 of the Constitution to review or reweigh the evidence upon which the inferior court or tribunal purports to have passed the order or to correct errors of law in the decision."

8. For the reasons mentioned above, we allow the appeal and set aside the impugned order dated January 24, 1995 of learned Single Judge.

We restore the order dated June 23, 1989 of the State Government. There shall be no order as to costs.

(R.S.Chauhan),J. (Shiv Kumar Sharma)J.

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